

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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AUG 19 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Administration of the ) CC Docket No. 92-237  
North American Numbering Plan )  
Carrier Identification Codes (CICs) )

**OPPOSITION OF U S WEST, INC.**

**I. INTRODUCTION**

U S WEST, Inc. ("U S WEST"),<sup>1</sup> pursuant to the Federal Communications Commission's ("Commission") Rule 47 C.F.R. Section 1.45(d)<sup>2</sup> hereby files its Opposition to MCI Telecommunications Corporation's ("MCI") Petition for Emergency Stay,<sup>3</sup> which seeks a stay of the Commission's May, 1st 1998 Declaratory Ruling.<sup>4</sup> MCI is petitioning to block or delay the conversion of end

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<sup>1</sup> As a party to this proceeding, U S WEST, Inc. in connection with Commission Rule 1.21(a) provides the following information regarding a recently completed transaction. Prior to June 12, 1998, U S WEST, Inc. was the parent company of two operating groups, U S WEST Communications Group, which included the company's incumbent local exchange operations and U S WEST Media Group. On June 12, 1998, U S WEST, Inc. separated into two independent companies: the businesses of the Communications Group (as well as the domestic telephone directory business of Media Group) were contributed to a new corporation later renamed U S WEST, Inc., while the former U S WEST, Inc. was renamed MediaOne Group, Inc. and continues to conduct the remaining businesses of the Media Group. U S WEST, Inc. has no parent company and no non-wholly owned subsidiary.

<sup>2</sup> 47 C.F.R. § 1.45(d).

<sup>3</sup> Petition for Emergency Stay filed August 12, 1998 ("Petition").

<sup>4</sup> In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), Declaratory Ruling, 13 FCC Rcd. 8687 (1998) ("Declaratory Ruling" or "Order").

offices from existing 5-digit carrier access codes ("CAC") to 7-digit CACs, for a **minimum** of three months.<sup>5</sup> MCI's pleading ignores the Commission's goal of moving expeditiously to a uniform dialing pattern for all carriers. Delay would also significantly devalue the time and money expended by local exchange carriers ("LEC"), including U S WEST, to meet the Commission's established conversion deadline and to assure a uniform dialing pattern for CACs in an expanding market.

As the basis for its request, MCI alleges generally that certain LECs are in current violation of the Commission's Declaratory Ruling regarding the timing associated with the referenced conversion. Furthermore, MCI asserts that "recently discovered technical deficienc[ies] threaten[ ] the integrity of all 'dial-around' interexchange services,"<sup>6</sup> said deficiencies being that intercept messages deployed in LEC switches -- to advise callers incorrectly dialing their dial-around carriers -- are not necessarily provided to the caller with the swift dispatch that MCI declares is required.

Like much of MCI's filed rhetoric, its Petition is devoid of sound legal analysis, making conclusory allegations about LECs' "noncompliance" with Commission mandates and taking a shotgun approach to its asserted critical call for regulatory action. In truth, MCI's Petition is just another attempt to continue to reap the profits associated with their well-publicized dial-around offerings.<sup>7</sup>

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<sup>5</sup> Petition at 2 (requesting that a three month stay be allowed after certain other activities are concluded by the Common Carrier Bureau ("Bureau")).

<sup>6</sup> Id. at 1.

<sup>7</sup> See Comments of U S WEST, CC Docket No. 92-237, filed Apr. 10, 1998 in response to an Ex Parte Letter to Mr. Richard Metzger, Chief, Common Carrier

MCI is flatly incorrect in its assertions that LECs are out of compliance or violating the Commission's Declaratory Ruling. Similarly, the unsupported facts presented regarding the intercept messages, if appropriate for any type of regulatory relief, are better suited to a complaint proceeding than a stay proceeding.

## II. GENERAL COMPLIANCE WITH DECLARATORY RULING

MCI's Petition is replete with references -- erroneous as a substantive matter -- that LECs are violating or are out of compliance with the Commission's Declaratory Ruling.<sup>8</sup> How MCI manages to reach its conclusions are impossible to discern. First, with respect to the "timing" of the conversions and their accomplishment, the Declaratory Ruling sets only a terminal date by which end office conversions are to be accomplished, i.e., September 1, 1998, not dates associated with phases (such as "each week," etc.). Thus, no LEC can be out of compliance with this aspect of the Order until after September 1, 1998.

Furthermore, any factual evidence that MCI provides regarding the "status" of office conversions at this point is certainly not evidence that would support a

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Bureau from Jonathan B. Sallet, MCI, dated Mar. 17, 1998 ("U S WEST Comments").

<sup>8</sup> See e.g., Petition at 2 ("majority of LECs are hugely deficient in their conversion" efforts; LECs "are not providing appropriate standard intercept announcements"), 3 ("LEC implementation failures"), 5 ("LECs failure to provide adequate switch capacity"), 6 (LECs have "incorrectly provisioned 'intercept' announcements"), 7 ("LECs are not presently complying with the Commission's Declaratory Ruling" and are demonstrating a "disregard" for the Commission's mandates).

stay. Rather, it is merely evidence regarding the state of deployment as of the date MCI canvassed the LEC community.<sup>9</sup>

Such factual information undoubtedly has its own “factual” explanation, whether it be resource allocation, unexpected deployment challenges, etc.<sup>10</sup> The salient issue is not where the LECs are now with respect to deployment but whether they will complete the conversion by September 1, 1998. Unless and until there is evidence of a clear and present danger of substantial industry noncompliance, evidence which MCI does not proffer and U S WEST believes it could not proffer,<sup>11</sup> MCI’s request for relief, i.e., an emergency stay, is clearly inappropriate if for no other reason than because MCI cannot demonstrate it will suffer irreparable harm.

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<sup>9</sup> Furthermore, its recited figures fail to take into account, in any principled manner, that a number of LECs have been granted waivers with respect to the CIC conversion itself, thus always depressing a “100%” completion figure until all the conversions are done. Thus, for example, a representation that “[o]nly 44% of LEC end offices nationwide have been converted to 4-digit CICs” overstates the extent of the problem *vis-à-vis* a September 1 deadline because that deadline is no longer in effect for the universe of LEC offices. Id. at 4.

<sup>10</sup> See, e.g., Letter from Elridge Stafford, Executive Director, Federal Regulatory, U S WEST, Inc. to Ms. Geraldine A. Matise, Chief, Network Services Division, Common Carrier Bureau, Federal Communications Commission, dated August 17, 1998 (regarding “Status of Phase-Out of Three-Digit CICs). In that communication, for example, U S WEST advises that its conversion progress is on target, despite the original “slower than expected” initial deployment due to “the time required to complete the blocking in the switches of one vendor [which] was significantly greater than originally anticipated.” Id. at 1. (“Stafford Aug. 17th Letter”).

<sup>11</sup> See Stafford Aug. 17th Letter at 1-2 (noting that, even in light of the current work stoppage being experienced by U S WEST, “it is still [its] goal to have all five-digit CAC blocking done by September 1, 1998” even though it had missed an earlier internal milestone deployment date of August 15th (immediately prior to union contract expiration).

Furthermore, if MCI were really concerned about the pace of the deployment, the more appropriate requested relief would have been to ask the Bureau to inquire as to the status of the various deployments, rather than proceed to a request for emergency stay. MCI's requested relief, however, demonstrates the extent to which its strategy is not really to secure information or accommodate a timely deployment, but to delay the CIC conversion effort as long as possible.

### III. INTERCEPT MESSAGE ISSUE

Undoubtedly because it was keenly aware of the weaknesses of its overall argument with respect to meeting the substantive legal requirements to secure a stay, MCI focuses its current advocacy around something it asserts is a recently-discovered, technical matter associated with the delivery of intercept messages with critical implications to the integrity of dial-around services.<sup>12</sup> As with its general assertions regarding overall "compliance" with the Declaratory Ruling, MCI is off-base with respect to this aspect of its requested relief, as well.

MCI's "evidence" regarding the intercept messages/excessive ringing aspect of its objections to current LEC conversion activities are framed in the most general of terms,<sup>13</sup> with specific reference to a single LEC..<sup>14</sup> Rather than secure its own

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<sup>12</sup> See, e.g., Petition at 1, 4, 5, 9.

<sup>13</sup> Id. at 2-3 (complaining that its test results in "certain cities" (failing to provide any documentation as to the actual cities involved) show that its dial-around customers receive three to 20 rings before hearing an intercept announcement), 4 ("The LECs are not appropriately applying intercept announcement messages for 3-digit CICs, as calls made with these access codes (such as '10-321') first ring as many as three to twenty times before being intercepted to an announcement.").

evidence to support a complaint or craft more-general relief with respect to overall industry deployment of the CIC conversion, MCI requests the Bureau to do its work for it and “direct LECs to promptly file a status report detailing their efforts to correct [some presumed] technical deficiency.”<sup>15</sup>

The Bureau should reject this invitation (although, undoubtedly certain information will be contained in responsive filings to the Petition, providing MCI with just the type of procedural short-cut it was attempting to secure). It should require MCI to come to the table with information, not speculation. This is most critically the case when the majority of the industry is within weeks of finalization the CIC conversion overall.

U S WEST has said it before and will say it again:<sup>16</sup> The Commission (and the Bureau) should not tolerate this type of pleading practice, whereby filing parties make broad allegations against “the LECs” or “carriers,” proffering no evidence against any specific carrier or all evidence against but a single carrier. As a general matter, such filings should be returned to the filing party with instructions to file the matter as a complaint.<sup>17</sup>

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<sup>14</sup> Id. at 5 (noting that the data provided by MCI in its Emergency Stay Petition pertains to field tests conducted with respect to one LEC and that the “problem is most severe” in that territory).

<sup>15</sup> Id. at 2.

<sup>16</sup> See, e.g., Opposition of U S WEST, Inc. to America’s Carriers Telecommunication Association’s Jan. 17, 1997 Petition for Declaratory ruling, ENF. File No. 97-04, filed May 19, 1997 at 3-4.

<sup>17</sup> U S WEST does understand that certain matters, even if raised only with respect to a single carrier might have broader ramifications, either in terms of regulatory implementation or policy. Thus, we do not preclude some filings being

But, having put the MCI Petition out for Public Notice,<sup>18</sup> commenting carriers will undoubtedly provide information regarding the timing of the delivery of their intercept messages in order to deter MCI's request. Here, U S WEST provides its information.

As each office has been converted to block 5-digit CACs, U S WEST has conducted conversion tests calls. And, upon the receipt of MCI's Petition and in anticipation of this response, test calls were made in three of U S WEST's CIC-converted end offices for each switch type. The tests conducted on August 14, 1998 showed that none of the test calls to the intercept took longer than two rings, with most taking only one ring. Two rings is indisputably not "excessive." Thus, at least with respect to U S WEST, MCI has demonstrated no facts to support a stay. It has not only failed to demonstrate any inappropriate actions by U S WEST, it has failed to demonstrate that it has or is suffering any harm, let alone irreparable harm.

Finally, MCI is incorrect when it cavalierly asserts "no other parties will be harmed if the stay is granted."<sup>19</sup> Dialing equity requires that the CIC conversion take place as soon as possible (accommodating idiosyncratic needs for minor delays). MCI's repeated attempts to delay the conversion are grounded in its attempts to continue to secure for itself (and its affiliates) the benefits associated with unequal

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appropriately entertained. However, the current process is ripe with abuse as filings such as MCI are routinely put out for comment, imposing commenting burdens on others rather than disciplining the process at the initiation.

<sup>18</sup> Public Notice, Commission Seeks Comment On Request For Commission Action Filed By MCI Telecommunications Corporation Concerning Carrier Identification Codes, DA 98-1638, rel. Aug. 14, 1998.

<sup>19</sup> Petition at 8.

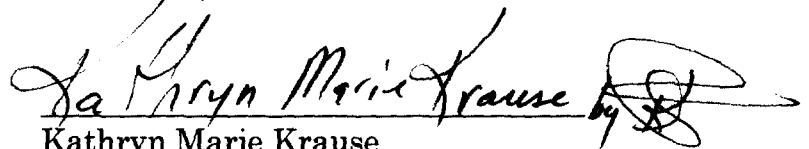
dialing opportunities. The industry is harmed by such approach. Individual carriers are harmed by such approach. And, most importantly, the public is ultimately harmed by such approach.<sup>20</sup>

The Commission should deny MCI's Petition.

Respectfully submitted,

U S WEST, INC.

By:

A handwritten signature in cursive script, appearing to read "Kathryn Marie Krause", followed by a stylized flourish or initial.

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August 19, 1998

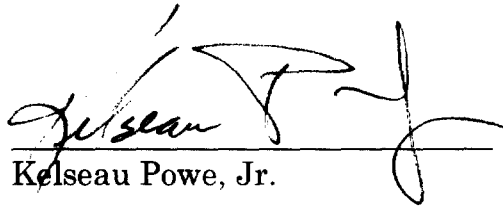
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<sup>20</sup> See Opposition of U S WEST, Inc. to Filed Petitions for Reconsideration, CC Docket No. 92-237, filed June 19, 1997 at 4.



## CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 19<sup>th</sup> day of August, 1998, I have caused a copy of the foregoing **OPPOSITION OF U S WEST, INC.** to be served, via first-class United States Mail, postage pre-paid, upon the persons listed on the attached service list.



Kelseau Powe, Jr.

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